

[*Phillips v. Citizens Assoc. for Sound Energy*](#), 91-ERA-25 (Sec'y Apr. 18, 1991)

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U.S. DEPARTMENT OF LABOR

SECRETARY OF LABOR
WASHINGTON, D.C.

DATE: April 18, 1991
CASE NO. 91-ERA-25

IN THE MATTER OF

H. SHANNON PHILLIPS,
COMPLAINANT,

v.

CITIZENS ASSOCIATION FOR
SOUND ENERGY,
RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER TO SUBMIT SETTLEMENT

Before me for review is the Recommended Order of Dismissal of Administrative Law Judge (ALJ) Kenneth A. Jennings, issued on March 7, 1991, in this case which arises under the employee protection provision of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851 (1988), and the implementing regulations at 29 C.F.R. Part 24 (1990). The ALJ recommends that this proceeding be dismissed with prejudice based on Complainant's explicit written request dated February 25, 1991, to which Respondent has not objected.

Complainant does not refer to a settlement agreement and no copy of any settlement appears in the record. However,

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correspondence submitted to the Secretary subsequent to the ALJ's decision indicates that the case has been settled rather than simply abandoned. *See, e.g.*, Letter from Kern to

Kohn dated March 28, 1991. A case under the ERA cannot be dismissed on the basis of a settlement unless the settlement has been reviewed by the Secretary and found to be fair, adequate and reasonable. *Scott v. American Protective Services, Inc.*, Case No. 89-ERA-35, Sec. Order to Submit Settlement, February 15, 1990, slip op. at 3; *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9 and 10, Sec. Order, March 23, 1989, and cases cited therein, slip op. at 2. See *Macktal v. Sec'y of Labor*, 923 F.2d 1150, 1154 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 558 (9th Cir. 1989).

Accordingly, the parties are ordered to submit a copy of the settlement agreement to me for review within thirty days of receipt of this order. If all the parties, including Complainant, have not signed the settlement agreement itself, the parties shall submit a certification or stipulation, signed by all the parties to the agreement, including Complainant individually, demonstrating their informed consent to the agreement.

SO ORDERED.

LYNN MARTIN
Secretary of Labor

Washington, D.C.